

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2010-236-C - ORDER NO. 2010-739  
OCTOBER 29, 2010

IN RE:	Application of Access Communications,	)	ORDER GRANTING
	LLC for a Certificate of Public Convenience	)	APPLICATION
	and Necessity to Provide Resold	)	
	Interexchange and Resold Local Exchange	)	
	Telecommunications Services within the	)	
	State of South Carolina and for Flexible and	)	
	Alternative Regulations	)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Access Communications, LLC ("Applicant", "Access," or the "Company") for authority to provide resold local exchange and resold interexchange telecommunications services within the State of South Carolina (the "Application"). Further, the Company requests that the Commission regulate its resold local retail telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business resold interexchange service offerings under modified alternative regulation as set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280, S.C. Code Ann. Section 58-9-585, and the rules and regulations of the Commission. By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the

Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Subsequently, counsel for SCTC filed with the Commission a Stipulation. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company, provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 4, 2010, at 9:00 a.m. in the Commission's Law Library with all relevant parties present. The Honorable Josh M. Minges, Hearing Examiner, presided. Scott Elliott, Esquire, represented the Company. Shealy Boland Reibold, Esquire, represented the Office of Regulatory Staff ("ORS"). Richard J. Slinin, Managing Member of the Applicant, appeared and testified in support of the Application.

At the outset of the hearing, the parties advised the Commission that they had reached settlement of all issues and accordingly a Settlement Agreement was entered into the record as Hearing Exhibit 2.

According to the record, Access is a Florida Corporation. Mr. Slinin testified that the Applicant is seeking certification in South Carolina. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina. Mr. Slinin stated that Access will initially resell local and long distance services and provide local service through the use of unbundled network

elements, using the facilities of the existing LECs or underlying carriers that presently serve South Carolina.

Mr. Slinin also testified regarding the managerial experience of the Applicant, and that Access had substantial financial resources to ensure the viability of the Company. In addition, he stated that granting Access' Application will introduce a telecommunications service provider committed to providing high-quality, innovative, and technologically advanced services that will further increase telecommunications competition in the State of South Carolina. Further, Mr. Slinin testified that Access has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Mr. Slinin stated that the Company will abide by all applicable Commission rules, regulations, and orders upon the Company receiving certification to provide resold intrastate interexchange and resold local exchange telecommunications services in South Carolina.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"). Additionally, the Company seeks a waiver of 26 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC databases into the master customer database of the local exchange carrier. At the hearing, the Applicant requested that the Company be granted a waiver of 26 S.C. Code Ann. Regs. 103-610 so that the Company be permitted

to maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters at its principal place of business in Florida. Lastly, the Company testified that since the Applicant's local exchange calling areas will initially mirror the service area of the incumbent local exchange carriers, the Applicant requested a waiver of the map filing requirement of 26 S.C. Code Ann. Regs. 103-612.2.3.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. The Company is a duly organized corporation which exists under the laws of the State of Florida and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1).

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2).

7. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5).

8. Following execution of the Stipulation with the SCTC, the SCTC withdrew its opposition to the Application.

9. The Settlement Agreement between the ORS and Applicant is fair and reasonable and shall be hereby approved.

#### CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive resold local exchange and resold interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of resold local exchange services by the Company will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. In addition, the Company is granted authority to provide intrastate interexchange services through the resale of services offered by other carriers in accordance with tariffs approved by the Commission.

7. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. The Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right, within thirty (30) days, to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further order of the Commission. Any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

8. The Commission adopts a rate design for the long distance services of the Company consistent with the principles and procedures established for alternative

regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997.

9. Under the Commission approved, modified alternative regulation, the business service offerings of the Company, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that first granted in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further order of the Commission. Any relaxation in the future reporting requirements that may be adopted for similarly situated interexchange carriers shall apply to the Company also.

10. With regard to the residential interexchange service offerings of the Company, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure

incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc. Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

11. With regard to residential interexchange service rates, the Company shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction, In Re: Application of GTE Sprint Communications, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540.

12. We conclude that the Applicant's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA; Access will instead use GAAP (generally accepted accounting principles). In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631, which requires publication of a local telephone directory. Last, we grant a waiver of



26 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Access Communications, LLC to provide competitive local exchange and interexchange telecommunications services.

2. The terms of the Stipulation between the Company and the SCTC is approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. The terms of the Settlement Agreement between the ORS and Company are approved, and the terms thereof are incorporated into this Order. The Settlement Agreement is attached as Order Exhibit 2.

4. If it has not already done so by the date of issuance of this Order, the Company shall file any or all tariffs utilizing the Commission's e-filing system for tariffs within 30 days of receipt of this order. The tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to any or all tariffs should be made using the ETariff System. Tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

Additionally, in the event that the Company intends to offer prepaid calling card services, it shall post a surety bond or certificate of deposit for prepaid calling card and long distance services in the amount of \$5,000 as required by the Commission.

5. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that, for access charge purposes, resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. To the extent the Company resells interexchange services, the Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission ("FCC"), pursuant to the Telecommunications Act of 1996 (See. 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

9. Access shall comply with Title 23, Chapter 47 of the South Carolina Statutes governing the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 services in the counties and cities where the Company will be operating before beginning telephone service in the State. A memorandum from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board, attached to the Settlement Agreement that accompanies this Order, provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, Access is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

10. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company

Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1st. Commission gross receipts forms are due to be filed with the Commission and ORS no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); the appropriate form is entitled "Gross Receipts Form." Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is to be filed annually no later than July 1st with the ORS.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Access shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this

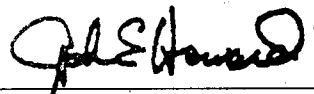
information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

12. The Company shall conduct its businesses in compliance with Commission decisions and orders, both past and future.

13. By its Application, the Company requested a waiver of 26 S.C. Code Ann. Regs. 103-631. In lieu of publishing local directories, the Company informs the Commission that it will contract with the incumbent LECs to provide the Company's customers with directory listings, as well as to undertake the distribution of directories. The Commission finds the Company's request reasonable and grants the requested waiver of the application of 26 S.C. Code Ann. Regs. 103-631. Further, the Company is granted a waiver of 26 S.C. Ann. Regs. 103-610, requiring the Company to maintain its financial books and records within the State of South Carolina. The Company is hereby granted permission to maintain its financial books and records at its principal place of business. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The Company is directed to comply with all rules and regulations of the Commission, unless the Commission specifically waives compliance with a regulation. Lastly, the Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 26 S.C. Code Ann. Regs. 103-612.2.3.

14. This Order shall remain in full force and effect until further Order of the Commission.

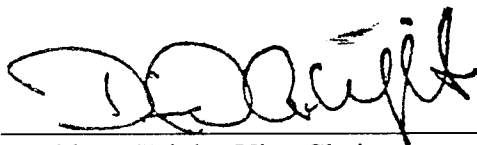
BY ORDER OF THE COMMISSION:



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John E. Howard, Chairman

ATTEST:



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David A. Wright, Vice Chairman  
(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2010-236-C

Re: Application of Access Communications, LLC )  
for a Certificate of Public Convenience and )  
Necessity to Provide Resold Local Exchange )  
And Resold Interexchange Services in the State )  
of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Access Communications, LLC ("Access Communications") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Access Communications' Application. SCTC and Access Communications stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Access Communications, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Access Communications stipulates and agrees that any Certificate which may be granted will authorize Access Communications to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Access Communications stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Access Communications stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Access Communications provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Access Communications acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Access Communications stipulates and agrees that, if Access Communications gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Access Communications will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Access Communications acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Access Communications, and this Stipulation in no way suspends



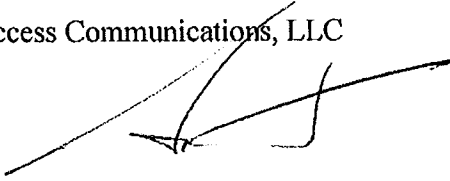
or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Access Communications agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Access Communications hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

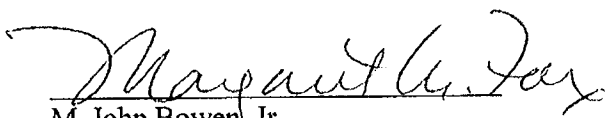
AGREED AND STIPULATED to this 24<sup>th</sup> day of August, 2010.

Access Communications, LLC

  
\_\_\_\_\_  
Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
1508 Lady Street  
Columbia, South Carolina 29201

Attorneys for Applicant Access  
Communications, LLC

South Carolina Telephone Coalition:

  
\_\_\_\_\_  
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Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2010-236-C**

**In Re:** )  
**Application of Access Communications,** )  
**LLC to Provide Resold Interexchange** ) **SETTLEMENT AGREEMENT**  
**And Local Exchange Telecommunications)**  
**Services Throughout South Carolina** )

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Access Communications, LLC ("Access" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on July 7, 2010, Access filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide resold local exchange and interexchange telecommunications services throughout the State of South Carolina; (ii) alternative regulation of its interexchange business services consistent with Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; (iii) flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iv) waiver of certain regulations of the Public Service Commission of South Carolina ("Commission"), specifically Regulations 103-610 regarding location of records, 103-612.2.3 regarding the filing of operating maps, and 103-631 concerning publishing and distributing local exchange directories; and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts ("USOA");

WHEREAS, on July 9, 2010, counsel for ORS entered a Notice of Appearance in this matter;

WHEREAS on July 14, 2010, the Commission issued a Notice of Filing and Hearing and established a return date of August 16, 2010. for the filing of letters of protest or petitions to intervene and established a hearing date of October 4, 2010 for the application to be heard before a hearing examiner;

WHEREAS, on July 22, 2010, the Commission issued its Order No. 2010-493 by which the Commission appointed Josh Minges, Esquire as the Hearing Examiner in this matter:

WHEREAS, on July 26, 2010, the Company's Motion for Protective Treatment of its financial statements was grating by Hearing Examiner directive;

WHEREAS, on August 16, 2010, the South Carolina Telephone Coalition ("SCTC") filed a Petition to Intervene in this docket;

WHEREAS, on August 20, 2010, the Company pre-filed the direct testimony of Richard J. Slinin with the Commission;

WHEREAS, on August 24, 2010, the SCTC filed with the Commission a Stipulation between the SCTC and Access;

WHEREAS, the purpose of this proceeding is to review the application filed by Access and its requests: (i) for a Certificate of Public Convenience and Necessity to provide resold local exchange and interexchange telecommunications services within the State of South Carolina; (ii) for alternative regulation of its interexchange business services, consumer card services, operator services, and private line services consistent with Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; (iii) for flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165

in Docket No. 97-467-C; (iv) for waiver of certain of the Commission Regulations, specifically Regulations 103-610 regarding location of records, 103-612.2.3 regarding the filing of operating maps, and 103-631 concerning publishing and distributing local exchange directories; and (v) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by Access, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by Access and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the prefiled testimony of Richard J. Slinin;

WHEREAS, as a result of its investigations, ORS has determined: (a) Access intends to offer resold local and long-distance telecommunications services such as residential and business local exchange services, PBX and DID services, optional calling features, directory assistance services, and operator services; (b) the officers of the Company possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided and the analysis performed, Access appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (d) the Company's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (e) the Company agrees that the services to be

provided by Access will meet the service standards required by the Commission; (f) the provision of services by Access will not adversely impact the availability of affordable telecommunications services; (g) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; and (h) the provision of interexchange services by Access will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that Access's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Richard Shinin without cross-examination by ORS;

3) Access has submitted financial data, which was provided as Exhibit D to the Company's Application and which was granted Protective Treatment by Commission Hearing Examiner Directive dated July 26, 2010 and which financial data is incorporated by reference;

4) The Parties agree that Access should be granted a Certificate of Public Convenience and Necessity to provide resold local exchange and interexchange telecommunications services within the state of South Carolina;

5) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2009) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing Access to maintain its books and records outside of the State of South Carolina in exchange for Access agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of Florida, and Access agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2009) or § 58-9-1070 (Supp. 2009). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

6) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-631 which requires the publication and distribution of directories, and Access agrees to make arrangements with publishers of local directories in South Carolina to include the names and telephone numbers of Access's subscribers and customers in local directories, unless a subscriber indicates his/her desire for an unpublished telephone number;

7) ORS does not oppose the Company's request for waiver of 26. S.C. Code Ann. Regs. 103-612.2.3 regarding the filing of operating maps. Access has stated it will operate only in AT&T's territory and will mirror AT&T's operating maps.

8) Access has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the USOA. The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2009) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses associated with its South Carolina operations for compliance with programs such as but not limited to the Universal Service Fund ("USF") and the Interim LEC Fund, dual party relay service fund, and gross receipts. Access agrees to complete the reporting forms for such programs as, but not limited to, USF, dual party relay service fund, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

9) ORS does not oppose Access's requests: (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of



such tariff filing being instituted within thirty (30) days; and (b) for alternative regulation of its interexchange business services, consumer card services, operator services, and private line service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) removal of the maximum rate tariff requirements for Access's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (ii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iii) grant Access the same treatment as all other carriers operating under alternative regulation in connection with any future relaxation of reporting requirements;

10) The Company agrees to resell the services only of those local exchange providers or interexchange carriers authorized to do business in South Carolina by the Commission. Access agrees to notify ORS and the Commission, in writing, of its underlying carriers and if Access changes its underlying carriers;

11) Access agrees that it will allow an end-user to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

12) Access agrees to file necessary financial, and other, information with the Commission and ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Access. The Parties agree that such reports shall be filed pursuant to ORS's instructions

and monies shall be remitted in accordance with the directions of the ORS and Commission requirements.

13) The Company agrees to maintain its books and records associated with its South Carolina operations in a manner that would permit ORS to examine any of the Company's reports filed with the Commission and provided to ORS.

14) Access agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

15) In the event that Access offers prepaid calling card or long distance services in the future, the Company agrees that it shall post a surety bond in the amount of \$5,000 as required by the Commission;

16) In the event that the Company offers prepaid local exchange service, Access agrees to comply with 26. S.C. Code Regs. 103-607 in that it will obtain a bond, irrevocable letter of credit, or certificate of deposit per the Commission's request or properly demonstrate the Company's entitlement to a waiver of that regulation.

17) In the event that Access offers local and long distance services to end users, Access agrees to comply with the verification regulations governing change of preferred carriers as established by Federal Communications Commission ("FCC"). In addition, in the event that Access offers local and long distance services to end users, the Company agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658;

18) Access agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, the Company agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a

separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

19) To the extent necessary, Access agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

20) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," also known as 911 services. At the time the Company offers or provides any service that would implicate Title 23, Chapter 47, the Company agrees to contact the appropriate authorities regarding 911 services in the counties and cities where the Company will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding the Company's operations. Attached as Exhibit 1 to this Settlement Agreement is a memorandum from the State 911 Office which provides contact information for the County 911 Coordinators;

21) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

22) Access agrees to file a final revised tariff with both the ORS and the Commission and the revised tariff shall reflect and be in accordance with ORS's recommendations as set forth in the summary attached as Exhibit 2 to this Settlement Agreement. The Company agrees to file and maintain its tariff with the Commission's electronic tariff filing system within thirty days of receipt of the Commission Order granting Access's certificate.

23) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

24) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

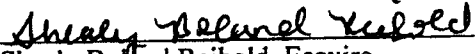
25) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

26) This Settlement Agreement shall be interpreted according to South Carolina law.

27) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

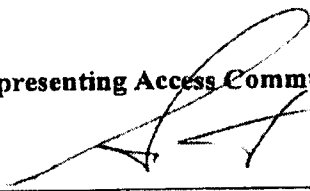
**WE AGREE:**

**Representing the Office of Regulatory Staff**

  
\_\_\_\_\_  
Shealy Boland Reibold, Esquire  
Office of Regulatory Staff  
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Email: sreibol@regstaff.sc.gov

9/30/10  
Date

**Representing Access Communications, LLC**

  
\_\_\_\_\_  
Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
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SEPTEMBER 30, 2010  
Date

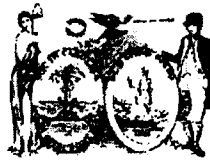
STATE OF SOUTH CAROLINA  
*State Budget and Control Board*  
OFFICE OF RESEARCH & STATISTICS

**EXHIBIT 1**

MARK SANFORD, CHAIRMAN  
GOVERNOR

GRADY L. PATTERSON, JR.  
STATE TREASURER

RICHARD ECKSTROM  
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.  
CHAIRMAN, WAYS AND MEANS COMMITTEE

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Bobby Bowers  
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at [www.ors.state.sc.us/digital/E-911.ASP](http://www.ors.state.sc.us/digital/E-911.ASP). If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

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**Recommendations for Access Communications Local Exchange Tariff No. 1**

**Original Page 3**—The Company should review and edit the table of contents page. Section 2 begins on page 10 and Section 4 begins on page 44.

**Original Page 44 4.2**—The Company should include a maximum as well as current rate for the Reconnection/Activation Fee.

**Original Page 46 4.6.1**—The Company should include maximum as well as current rates for both residential and business non-recurring charges.

**Original Page 46 4.6.2**—The Company should include maximum as well as current rates for both residential and business charges.

**Original Page 46 4.6.3**—The Company should include maximum as well as current rates for both residential and business charges.

**Original Page 47 4.7**—The Company should include maximum as well as current rates for both residential and business charges.

**Original Page 48 4.8**—The Company should include maximum as well as current rates for both residential and business charges.

**Original Page 48 4.9**—The Company should include maximum as well as current rates for both residential and business charges.

**Original Page 49 4.10.1**—The Company should include maximum as well as current rates for each charge.

**Original Page 49 4.10.2**—The Company should include maximum as well as current rates for each charge.

**Original Page 49 4.10.3**—The Company should include maximum as well as current rates for each charge.

**Original Page 49 4.10.4**—The Company should include maximum as well as current rates for each charge.

**Recommendations for Access Communications Interexchange Tariff No. 2**

**Original Page 2**—The Company should review and edit the check sheet. There appear to be 33 pages in the tariff.



**Original Page 3**—The Company should review and edit the table of contents page. Section 3 begins on page 21, Section 4 begins on page 26, and Section 5 begins on page 33.

**Original Page 20 2.14**—The Company should change “South Dakota Public Utilities Commission” to “South Carolina Public Service Commission”.

**Original Page 26 4.1**—note that the Company is applying for Modified Alternative Regulation of its Interexchange Services. This form of regulation requires both maximum and current rates for any service that may apply to residential customers. This allows flexibility in the adjustment of rates.

**Original Page 26 4.1.2**—The Company should include both maximum and current rates for each charge that may apply to residential customers.

**Original Page 26 4.1.3**—The Company should include both maximum and current rates for each charge that may apply to residential customers.

**Original Page 26 4.1.3**—The Company should modify the “Toll Free Minimum Usage Charge” to “4.1.4”. The Company should also include both maximum and current rates for each charge that may apply to residential customers.

**Original Page 27 4.2.1**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 27 4.2.2**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 27 4.2.3**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 27 4.2.4**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 28 4.2.5**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 28 4.2.6**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 30 4.3**—The Company should include maximum and current rates for both the MRC and NRC if they may apply to residential customers.

**Original Page 31 4.4**—The Company should include maximum and current rates for each charge that may apply to residential customers.

**Original Page 32 4.8—The Company should include maximum and current rates for each charge that may apply to residential customers.**

**Additional Recommendations**

- 1) If the Company charges any installation, connection, maintenance, or termination charges, etc., these additional charges and descriptions of the charges should be listed in the tariff with their current and maximum rates.**
- 2) The Company should also provide tariffs and tariff revisions to the South Carolina Public Service Commission as well as the South Carolina Office of Regulatory Staff (26 S.C. Code Regs. 103-629).**
- 3) If the Company's Services involve Prepaid Calling Cards, the Company will be required to post a \$5, 000 Surety Bond with the Public Service Commission.**
- 4) The Company is applying for Modified Alternate Regulation by the PSC for its Interexchange Services. As a general rule, the Company should include maximum rates and current rates for any service that may impact residential Customers. Any service that impacts Business Long Distance, Consumer Cards, and Operator Services (Including Directory Assistance) are exempt from maximum rates. Only current rates would need to be filed for these services.**
- 5) The Company may be required to file a bond in order for the Company to comply with new 26 S.C. Code Regs. 103-607.**
- 6) The Company is applying for Flexible Regulation. Therefore, The Company will include maximum rates as well as current rates for all services within the Local Exchange Tariff.**